

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

**JAMES WESLEY BURKE,**

Plaintiff,

v.

**McCURTAIN COUNTY, et al.,**

Defendants.

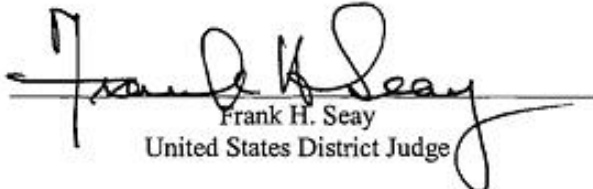
**No. CIV 09-310-FHS-SPS**

**OPINION AND ORDER**  
**DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL**

Plaintiff has filed another motion requesting the court to appoint counsel [Docket No. 77]. He still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court again has carefully reviewed the merits of plaintiff's claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering plaintiff's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

**ACCORDINGLY**, plaintiff's second motion for appointment of counsel [Docket No. 77] is DENIED.

DATED this 17<sup>th</sup> day of March, 2011.

  
Frank H. Seay  
United States District Judge